



08 JUL 2008

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. BOX 8910  
RESTON VA 20195

In re Application of	:	
KO et al.	:	DECISION ON PETITION
Serial No.: 10/572,563	:	
PCT No.: PCT/CN04/01044	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 14 September 2004	:	
Priority Date: 17 September 2003	:	
Atty Docket No.: 8964-000031/US	:	
For: A FUNGAL IMMUNOMODULATORY	:	
PROTEIN PRODUCED BY MICROORGANISMS :	:	
AND USES THEREOF	:	

This decision is in response to applicant's "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 09 May 2008 to accept the application without the signatures of joint inventors, HSU-WEI HUNG, HO-LUNG JIANG, CHING-LING HU AND CHENG-CHUN KUAN.

### **BACKGROUND**

On 02 April 2007, applicant filed a petition under 37 CFR 1.47(a) to accept the application without the signatures of joint inventors HSU-WEI HUNG, HO-LUNG JIANG, CHING-LING HU AND CHENG-CHUN KUAN.

On 24 August 2007, a decision dismissing the petition was mailed to applicant.

On 22 February 2008, a renewed petition was filed. On 28 April 2008, a decision dismissing the petition was mailed indicating that a complete copy of the declaration executed by previously non-signing inventor HO-LUNG JIANG was required.

On 09 May 2008, Petitioner submitted, *inter alia*, a complete declaration executed by previously non-signing inventor HO-LUNG JIANG.

### **DISCUSSION**

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1), (2) and (3) above were previously satisfied.

Petitioner previously presented sufficient evidence to show that Messrs. Hung, Hu and

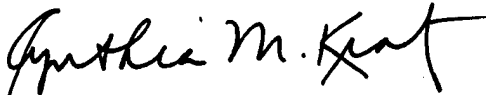
Kuan were presented with and received a complete copy of the application papers including a declaration and that they refuse to sign the application papers. With the submission of the complete declaration of inventor Jiang, the requirements of 37 CFR 1.47(a) are satisfied. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

### CONCLUSION

For the above reasons, the petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office has accepted the application as a 37 CFR 1.47(a) application using the declarations filed 02 April 2007 and 09 May 2008. The application has an international filing date of 14 September 2004 under 35 U.S.C. 363, and a date of 09 May 2008 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.



Cynthia M. Kratz  
Attorney Advisor  
Office of PCT Legal Administration

Telephone: (571) 272-3286  
Fax: (571) 273-0459



UNITED STATES PATENT AND TRADEMARK OFFICE

08 JUL 2003

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

HSU-WEI HUNG  
15F.  
NO. 18, ALLEY 9, LANE 297  
YUANTONG RD.  
JHONGHE CITY, TAIPEI COUNTY 235  
TAIWAN, R.O.C.

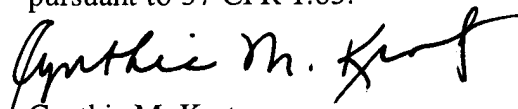
In re Application of  
KO et al.  
Serial No.: 10/572,563  
PCT No.: PCT/CN04/01044  
Int. Filing Date: 14 September 2004  
Priority Date: 17 September 2003  
Atty Docket No.: 8964-000031/US  
For: A FUNGAL IMMUNOMODULATORY  
PROTEIN PRODUCED BY MICROORGANISMS  
AND USES THEREOF

DECISION ON PETITION  
UNDER 37 CFR 1.47(a)

Dear Mr. Hung:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

  
Cynthia M. Kratz  
Attorney Advisor  
PCT Legal Office

Telephone: (571)272 -3286

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. BOX 8910  
RESTON VA 20195



UNITED STATES PATENT AND TRADEMARK OFFICE

08 JUL 2008

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

CHENG-CHUN KUAN  
4F., NO.24-11, LANE 134, SEC.3  
SINYI RD.  
DA-AN DISTRICT  
TAIPEI CITY 106, TAIWAN R.O.C.

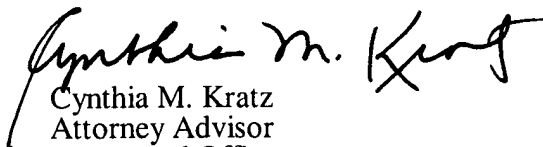
In re Application of :  
KO et al. :  
Serial No.: 10/572,563 :  
PCT No.: PCT/CN04/01044 :  
Int. Filing Date: 14 September 2004 :  
Priority Date: 17 September 2003 :  
Atty Docket No.: 8964-000031/US :  
For: A FUNGAL IMMUNOMODULATORY :  
PROTEIN PRODUCED BY MICROORGANISMS :  
AND USES THEREOF :

DECISION ON PETITION  
UNDER 37 CFR 1.47(a)

Dear Mr. Kuan:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

  
Cynthia M. Kratz  
Attorney Advisor  
PCT Legal Office

Telephone: (571)272-3286

HARNESS, DICKY & PIERCE, P.L.C.  
P.O. BOX 8910  
RESTON VA 20195



08 JUL 2008

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

CHING-LUNG HU  
3F, NO.4 ALLEY 12  
LANE 79, SEC 2,  
SINYI RD.  
JHONGIHENG DISTRICT  
TAIPEI CITY 100  
TAIWAN, R.O.C.

In re Application of :  
KO et al. :  
Serial No.: 10/572,563 :  
PCT No.: PCT/CN04/01044 :  
Int. Filing Date: 14 September 2004 :  
Priority Date: 17 September 2003 :  
Atty Docket No.: 8964-000031/US :  
For: A FUNGAL IMMUNOMODULATORY :  
PROTEIN PRODUCED BY MICROORGANISMS :  
AND USES THEREOF :

DECISION ON PETITION  
UNDER 37 CFR 1.47(a)

Dear Mr. Hu:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

  
Cynthia M. Kratz  
Attorney Advisor  
PCT Legal Office

Telephone: (571)272 -3286

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. BOX 8910  
RESTON VA 20195